

Senate Bill 640

By: Senator Thompson of the 5th

A BILL TO BE ENTITLED
AN ACT

To amend Title 50 of the Official Code of Georgia Annotated, relating to state government, so as to provide for the denial, suspension, and revocation of a license for frequent or multiple violations of the federal Immigration Reform and Control Act of 1986; to provide for a short title; to provide for definitions; to provide for certain penalties for violations; to provide for a certain presumption; to require participation in a certain federal program as a condition for certain contracts or grants; to provide for construction; to provide for other related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 50 of the Official Code of Georgia Annotated, relating to state government, is amended by inserting at the end thereof a new Chapter 36 to read as follows:

"CHAPTER 36

50-36-1.

This chapter shall be known and may be cited as the 'Georgia Workers Security Act.'

50-36-2.

As used in this chapter, the term:

(1) 'Basic pilot program' means the electronic verification of a work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208, Division C, Section 403(a), 8 U.S.C. Section 1324a, and operated by the United States Department of Homeland Security.

(2) 'Employee' means any person performing or applying for work or service of any kind or character for hire.

1 (3) 'Employer' means any person employing or seeking to employ any person for hire.

2 (4) 'License' means a certificate, permit, registration, or any other authorization issued
3 by the Department of Public Safety or any other licensing entity, including political
4 subdivisions of this state, that allows a person to operate a motor vehicle, to operate a
5 business, to engage in a profession, business, or occupation, or to hunt or fish.

6 (5) 'Licensing entity' means any state agency, department, or board of this state, including
7 political subdivisions of this state, which issues or renews any license, certificate, permit,
8 or registration to authorize a person to drive a motor vehicle, to hunt or fish, to operate
9 a business, or to engage in a profession, business, or occupation including those under
10 Article 3 of Chapter 7 of Title 2, the 'Georgia Pesticide Use and Application Act of 1976';
11 Article 13 of Chapter 1 of Title 7, relating to mortgage lenders and mortgage brokers;
12 Chapter 5 of Title 10, the 'Georgia Securities Act of 1973,' relating to securities
13 salespersons and investment adviser representatives; Part 2 of Article 1 of Chapter 6 of
14 Title 12, relating to foresters; Chapter 4 of Title 26, relating to pharmacists; Chapter 23
15 of Title 33, relating to insurance agents, counselors, and other personnel; Chapter 1 of
16 Title 43, relating to professions and businesses; Chapter 39A of Title 43, relating to real
17 estate appraisers; or Chapter 40 of Title 43, relating to real estate brokers and
18 salespersons.

19 50-36-3.

20 (a) On and after July 1, 2006, any licensing entity shall deny, suspend, or revoke a license
21 for a period of one year for a first violation and five years for a second violation, on the
22 ground that the licensee, within any succeeding five-year period, violated either Section
23 274A(a)(1)(A) or 274A(a)(2) or both such sections of the federal Immigration Reform and
24 Control Act of 1986, 8 U.S.C. Section 1324a(a)(1)(A) and Section 1324a(a)(2),
25 respectively, on two or more separate occasions, at least one of which involves one or more
26 employees in connection with the business, profession, or other activity for which that
27 license is required. For purposes of this Code section, a violation of Section 274A(a)(1)(A)
28 or 274A(a)(2) of the federal Immigration Reform and Control Act of 1986 shall be deemed
29 to have occurred only if there has been a final determination, pursuant to such Act, that the
30 licensee violated either such section. If the licensee is an individual, this Code section shall
31 apply only if the licensee was determined to have been individually responsible and
32 accountable for the violation of such Act and any injunctions issued or penalties assessed
33 were directed to the licensee as an individual, regardless of whether a business or
34 professional entity in which the licensee had an ownership interest, or with which the

licensee had an employment or other relationship, at the time of the violation was enjoined or assessed penalties therefor.

(b) If the violation giving rise to the denial, suspension, or revocation of the license involves more than ten employees, the license shall be denied, suspended, or revoked for a period of five years regardless of whether such person or entity has any previous violations.

(c) If the violation of subsection (a) of this Code section involves use of employees in the construction of a building or structure for which a certificate of occupancy is required prior to occupancy of such building or structure, such certificate of occupancy shall not be issued until the licensee pays a civil penalty in the amount of \$5,000.00 to the licensing entity.

(d) If the violation of subsection (a) of this Code section involves an alcoholic beverage license or a business license, in addition to the denial, suspension, or revocation of such license, a civil penalty of \$1,000.00 shall be imposed for the first offense, \$2,500.00 for the second offense, and \$5,000.00 for each subsequent offense in addition to any period of denial, suspension, or revocation.

50-36-4.

(a) The State of Georgia shall require, as a condition of the award of a contract or a grant to any business or enterprise, that the business or enterprise shall enroll and participate in the Basic Pilot Program as defined in Code Section 50-36-2.

(b) The State of Georgia shall require, as a condition of the award of a contract or a grant to any business or enterprise, that the business or enterprise shall not have been determined to be in violation of the federal Immigration Reform and Control Act of 1986 within the five-year period preceding the date of the contract or grant; provided, however, that this requirement shall not apply to any violation of the federal Act which occurred prior to July 1, 2006.

50-36-5.

There shall be a rebuttable presumption that licensees who are participating in the Basic Pilot Program for the particular work site in question and who obtain confirmation of identity and employment eligibility in compliance with the terms and conditions of such program are in compliance with Section 274A(a)(1)(A) and 274A(a)(2) of the federal Immigration Reform and Control Act of 1986.

50-36-6.

3 **SECTION 2.**
4 All laws and parts of laws in conflict with this Act are repealed.

S. B. 640